

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Maher Terminals)	File No.: EB-FIELDNER-13-00012175
Licensee of Station WQSE981)	
)	NOV No.: V201432380002
Elizabeth, New Jersey)	
)	
)	

NOTICE OF VIOLATION

Released: November 22, 2013

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)¹ to Maher Terminals (Maher), licensee of Private Land Mobile Radio Station WQSE981 in Elizabeth, New Jersey. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On November 6, 2013, in response to a complaint of harmful interference, agents of the Enforcement Bureau’s New York Office inspected Station WQSE981 and observed the following violations:

- a. 47 C.F.R. § 90.403(e): “Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.” At the time of the investigation, the agents observed that Maher failed to monitor for communications in progress prior to transmitting on the frequency 468.475 MHz, which created the potential for interference to other co-channel licensees.
- b. 47 C.F.R. § 1.903(a): “Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

paragraph (b) of this section.” At the time of inspection, Maher was transmitting digital data on the frequency 468.475 MHz using a Motorola MOTOTRBO transmitter. The license for station WQSE981 only authorizes digital voice (FXE) on the frequency 468.475 MHz.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Maher must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Rules, we direct Maher to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer or official of Maher with personal knowledge of the representations provided in Maher’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
New York Office
201 Varick Street
Suite 1151
New York, NY 10014

6. This Notice shall be sent to Maher Terminals at its address of record.

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

Federal Communications Commission

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Stephen Maguire
District Director
New York Office
Northeast Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).